
HOUSE BILL No. 1492

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-12.1.

Synopsis: Tax abatement for leased property. Allows a property owner to apply for the economic revitalization property tax abatement when the property owner leases the property to a lessee who uses the property and employs the individuals necessary to receive the abatement.

Effective: January 1, 2008.

Leonard

January 23, 2007, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE BILL No. 1492

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-12.1-1, AS AMENDED BY P.L.154-2006,
2 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2008]: Sec. 1. For purposes of this chapter:

4 (1) "Economic revitalization area" means an area which is within
5 the corporate limits of a city, town, or county which has become
6 undesirable for, or impossible of, normal development and
7 occupancy because of a lack of development, cessation of growth,
8 deterioration of improvements or character of occupancy, age,
9 obsolescence, substandard buildings, or other factors which have
10 impaired values or prevent a normal development of property or
11 use of property. The term "economic revitalization area" also
12 includes:

13 (A) any area where a facility or a group of facilities that are
14 technologically, economically, or energy obsolete are located
15 and where the obsolescence may lead to a decline in
16 employment and tax revenues; and

17 (B) a residually distressed area, except as otherwise

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provided in this chapter.

(2) "City" means any city in this state, and "town" means any town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means tangible personal property that a deduction applicant **acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant for use as described in clause (B). In addition, the deduction applicant or a person who leases the tangible personal property from a deduction applicant must:**

(A) ~~installs~~ **install the tangible personal property** after February 28, 1983, and on or before the approval deadline determined under section 9 of this chapter, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;

(B) ~~uses~~ **use the tangible personal property** in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; **and**

~~(C)~~ **acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant for use as described in clause (B); and**

~~(D)~~ **(C) have never used the tangible personal property** for any purpose in Indiana before the installation described in clause (A).

However, notwithstanding any other law, the term includes tangible personal property that is used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products and was installed after March 1, 1993, and before March 2, 1996, even if the property was installed before the area where the property is located was designated as an economic revitalization area or the statement of benefits for the property was approved by the designating body.

(4) "Property" means a building or structure, but does not include land.

(5) "Redevelopment" means the construction of new structures, in economic revitalization areas, either:

(A) on unimproved real estate; or

(B) on real estate upon which a prior existing structure is

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- demolished to allow for a new construction.
- (6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of property.
- (7) "Designating body" means the following:
- (A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.
 - (B) For a county containing a consolidated city, the metropolitan development commission.
- (8) "Deduction application" means:
- (A) the application filed in accordance with section 5 of this chapter by a property owner who desires to obtain the deduction provided by section 3 of this chapter;
 - (B) the application filed in accordance with section 5.4 of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter; or
 - (C) the application filed in accordance with section 5.3 of this chapter by a property owner that desires to obtain the deduction provided by section 4.8 of this chapter.
- (9) "Designation application" means an application that is filed with a designating body to assist that body in making a determination about whether a particular area should be designated as an economic revitalization area.
- (10) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a). The term includes waste determined to be a hazardous waste under IC 13-22-2-3(b).
- (11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). However, the term does not include dead animals or any animal solid or semisolid wastes.
- (12) "New research and development equipment" means tangible personal property that:
- (A) a deduction applicant **or a person who leases the tangible personal property from a deduction applicant** installs after June 30, 2000, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;
 - (B) consists of:
 - (i) laboratory equipment;
 - (ii) research and development equipment;
 - (iii) computers and computer software;
 - (iv) telecommunications equipment; or

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(v) testing equipment;

(C) the deduction applicant **or a person who leases the tangible personal property from a deduction applicant** uses in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products;

(D) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant for purposes described in this subdivision; and

(E) the deduction applicant **or a person who leases the tangible personal property from a deduction applicant** never used for any purpose in Indiana before the installation described in clause (A).

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.

(13) "New logistical distribution equipment" means tangible personal property that:

(A) a deduction applicant **or a person who leases the tangible personal property from a deduction applicant** installs after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

(i) racking equipment;

(ii) scanning or coding equipment;

(iii) separators;

(iv) conveyors;

(v) fork lifts or lifting equipment (including "walk behinds");

(vi) transitional moving equipment;

(vii) packaging equipment;

(viii) sorting and picking equipment; or

(ix) software for technology used in logistical distribution;

(C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant and uses for the storage or distribution of

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goods, services, or information; and

(D) the deduction applicant **or a person who leases the tangible personal property from a deduction applicant** never used for any purpose in Indiana before the installation described in clause (A).

(14) "New information technology equipment" means tangible personal property that:

(A) a deduction applicant **or a person who leases the tangible personal property from a deduction applicant** installs after June 30, 2004, and on or before the approval deadline determined under section 9 of this chapter, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of equipment, including software, used in the fields of:

- (i) information processing;
- (ii) office automation;
- (iii) telecommunication facilities and networks;
- (iv) informatics;
- (v) network administration;
- (vi) software development; and
- (vii) fiber optics;

(C) the deduction applicant acquires in an arms length transaction from an entity that is not an affiliate of the deduction applicant; and

(D) the deduction applicant **or a person who leases the tangible personal property from a deduction applicant** never used for any purpose in Indiana before the installation described in clause (A).

(15) "Deduction applicant" means an owner of tangible personal property who makes a deduction application.

(16) "Affiliate" means an entity that effectively controls or is controlled by a deduction applicant or is associated with a deduction applicant under common ownership or control, whether by shareholdings or other means.

(17) "Eligible vacant building" means a building that:

(A) is zoned for commercial or industrial purposes; and

(B) is unoccupied for at least one (1) year before the owner of the building or a tenant of the owner occupies the building, as evidenced by a valid certificate of occupancy, paid utility receipts, executed lease agreements, or any other evidence of occupation that the department of local government finance

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1 requires.

2 SECTION 2. IC 6-1.1-12.1-3 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 3. (a) An
 4 applicant must provide a statement of benefits to the designating body.
 5 If the designating body requires information from the applicant for
 6 economic revitalization area status for use in making its decision about
 7 whether to designate an economic revitalization area, the applicant
 8 shall provide the completed statement of benefits form to the
 9 designating body before the hearing required by section 2.5(c) of this
 10 chapter. Otherwise, the statement of benefits form must be submitted
 11 to the designating body before the initiation of the redevelopment or
 12 rehabilitation for which the person desires to claim a deduction under
 13 this chapter. The department of local government finance shall
 14 prescribe a form for the statement of benefits. The statement of benefits
 15 must include the following information:

- 16 (1) A description of the proposed redevelopment or rehabilitation.
- 17 (2) An estimate of the number of individuals who will be
- 18 employed or whose employment will be retained by the person **or**
- 19 **a tenant of the property owner** as a result of the redevelopment
- 20 or rehabilitation and an estimate of the annual salaries of these
- 21 individuals.
- 22 (3) An estimate of the value of the redevelopment or
- 23 rehabilitation.

24 With the approval of the designating body, the statement of benefits
 25 may be incorporated in a designation application. Notwithstanding any
 26 other law, a statement of benefits is a public record that may be
 27 inspected and copied under IC 5-14-3-3.

28 (b) The designating body must review the statement of benefits
 29 required under subsection (a). The designating body shall determine
 30 whether an area should be designated an economic revitalization area
 31 or whether a deduction should be allowed, based on (and after it has
 32 made) the following findings:

- 33 (1) Whether the estimate of the value of the redevelopment or
- 34 rehabilitation is reasonable for projects of that nature.
- 35 (2) Whether the estimate of the number of individuals who will be
- 36 employed or whose employment will be retained can be
- 37 reasonably expected to result from the proposed described
- 38 redevelopment or rehabilitation.
- 39 (3) Whether the estimate of the annual salaries of those
- 40 individuals who will be employed or whose employment will be
- 41 retained can be reasonably expected to result from the proposed
- 42 described redevelopment or rehabilitation.

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(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years. For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled to a deduction if:

(1) the property has been rehabilitated; or

(2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

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A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

- (1) Private or commercial golf course.
- (2) Country club.
- (3) Massage parlor.
- (4) Tennis club.
- (5) Skating facility (including roller skating, skateboarding, or ice skating).
- (6) Racquet sport facility (including any handball or racquetball court).
- (7) Hot tub facility.
- (8) Suntan facility.
- (9) Racetrack.
- (10) Any facility the primary purpose of which is:
 - (A) retail food and beverage service;
 - (B) automobile sales or service; or
 - (C) other retail;
 unless the facility is located in an economic development target area established under section 7 of this chapter.
- (11) Residential, unless:
 - (A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;
 - (B) the facility is located in an economic development target area established under section 7 of this chapter; or
 - (C) the area is designated as a residentially distressed area.
- (12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:
 - (A) was eligible for tax abatement under this chapter before July 1, 1995;
 - (B) is described in IC 7.1-5-7-11; or
 - (C) operates, **or has a lessee that operates**, a facility under:

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- (i) a beer wholesaler's permit under IC 7.1-3-3;
- (ii) a liquor wholesaler's permit under IC 7.1-3-8; or
- (iii) a wine wholesaler's permit under IC 7.1-3-13;

for which the applicant claims a deduction under this chapter.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination of the following:

- (1) Elderly persons who are predominately low-income or moderate-income persons.
- (2) Disabled persons.

A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

SECTION 3. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.154-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

- (1) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that the person proposes to acquire.
- (2) With respect to:
 - (A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

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(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

an estimate of the number of individuals who will be employed or whose employment will be retained by the person **or by a person who leases the tangible personal property from the property owner** as a result of the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, new logistical distribution equipment, or new information technology equipment;

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be

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reasonably expected to result from the installation of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), and subject to subsection (i), an owner of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, and subject to subsection (i), the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment in the year of deduction under the appropriate table set forth in subsection

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(e); multiplied by

(2) the percentage prescribed in the appropriate table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%

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1	6th	25%
2	7th and thereafter	0%
3	(7) For deductions allowed over a seven (7) year period:	
4	YEAR OF DEDUCTION	PERCENTAGE
5	1st	100%
6	2nd	85%
7	3rd	71%
8	4th	57%
9	5th	43%
10	6th	29%
11	7th	14%
12	8th and thereafter	0%
13	(8) For deductions allowed over an eight (8) year period:	
14	YEAR OF DEDUCTION	PERCENTAGE
15	1st	100%
16	2nd	88%
17	3rd	75%
18	4th	63%
19	5th	50%
20	6th	38%
21	7th	25%
22	8th	13%
23	9th and thereafter	0%
24	(9) For deductions allowed over a nine (9) year period:	
25	YEAR OF DEDUCTION	PERCENTAGE
26	1st	100%
27	2nd	88%
28	3rd	77%
29	4th	66%
30	5th	55%
31	6th	44%
32	7th	33%
33	8th	22%
34	9th	11%
35	10th and thereafter	0%
36	(10) For deductions allowed over a ten (10) year period:	
37	YEAR OF DEDUCTION	PERCENTAGE
38	1st	100%
39	2nd	90%
40	3rd	80%
41	4th	70%
42	5th	60%

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1	6th	50%
2	7th	40%
3	8th	30%
4	9th	20%
5	10th	10%
6	11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or

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state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

(i) For purposes of subsection (d), the assessed value of new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment that is part of an owner's assessable depreciable personal property in a single taxing district subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 is the product of:

(1) the assessed value of the equipment determined without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9; multiplied by

(2) the quotient of:

(A) the amount of the valuation limitation determined under 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 for all of the owner's depreciable personal property in the taxing district; divided by
(B) the total true tax value of all of the owner's depreciable personal property in the taxing district that is subject to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9 determined:

(i) under the depreciation schedules in the rules of the department of local government finance before any adjustment for abnormal obsolescence; and

(ii) without regard to the valuation limitation in 50 IAC 4.2-4-9 or 50 IAC 5.1-6-9.

SECTION 4. IC 6-1.1-12.1-5, AS AMENDED BY P.L.193-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5. (a) A property owner who desires to obtain the deduction provided by section 3 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is located. Except as otherwise provided in subsection (b) or (e), the deduction application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The deduction application required by this section must contain the following information:

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(1) The name of the property owner **and, if applicable, the property owner's tenant.**

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation.

(5) The assessed value of the new structure in the case of redevelopment.

(6) The amount of the deduction claimed for the first year of the deduction.

(7) If the deduction application is for a deduction in a residentially distressed area, the assessed value of the improvement or new structure for which the deduction is claimed.

(d) A deduction application filed under subsection (a) or (b) is applicable for the year in which the addition to assessed value or assessment of a new structure is made and in the following years the deduction is allowed without any additional deduction application being filed. However, property owners who had an area designated an urban development area pursuant to a deduction application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to a deduction application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(e) A property owner who desires to obtain the deduction provided by section 3 of this chapter but who has failed to file a deduction application within the dates prescribed in subsection (a) or (b) may file a deduction application between March 1 and May 10 of a subsequent year which shall be applicable for the year filed and the subsequent years without any additional deduction application being filed for the amounts of the deduction which would be applicable to such years pursuant to section 4 of this chapter if such a deduction application had been filed in accordance with subsection (a) or (b).

(f) Subject to subsection (i), the county auditor shall act as follows:

(1) If a determination about the number of years the deduction is allowed has been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall make the appropriate deduction.

(2) If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of

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the deduction application to the designating body. Upon receipt of the resolution stating the number of years the deduction will be allowed, the county auditor shall make the appropriate deduction.

(3) If the deduction application is for rehabilitation or redevelopment in a residentially distressed area, the county auditor shall make the appropriate deduction.

(g) The amount and period of the deduction provided for property by section 3 of this chapter are not affected by a change in the ownership of the property if:

(1) the new owner of the property

~~(1) or a lessee of the new owner~~ continues to use the property in compliance with any standards established under section 2(g) of this chapter; and

(2) **the new owner** files an application in the manner provided by subsection (e).

(h) The township assessor shall include a notice of the deadlines for filing a deduction application under subsections (a) and (b) with each notice to a property owner of an addition to assessed value or of a new assessment.

(i) Before the county auditor acts under subsection (f), the county auditor may request that the township assessor of the township in which the property is located review the deduction application.

(j) A property owner may appeal a determination of the county auditor under subsection (f) to deny or alter the amount of the deduction by requesting in writing a preliminary conference with the county auditor not more than forty-five (45) days after the county auditor gives the person notice of the determination. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

SECTION 5. IC 6-1.1-12.1-5.1, AS AMENDED BY P.L.193-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5.1. (a) This subsection applies to:

(1) all deductions under section 3 of this chapter for property located in a residentially distressed area; and

(2) any other deductions for which a statement of benefits was approved under section 3 of this chapter before July 1, 1991.

In addition to the requirements of section 5(c) of this chapter, a deduction application filed under section 5 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 3 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

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(b) This subsection applies to each deduction (other than a deduction for property located in a residentially distressed area) for which a statement of benefits was approved under section 3 of this chapter after June 30, 1991. In addition to the requirements of section 5(c) of this chapter, a property owner who files a deduction application under section 5 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 3 of this chapter. This information must be included in the deduction application and must also be updated each year in which the deduction is applicable at the same time that the property owner is required to file a personal property tax return in the taxing district in which the property for which the deduction was granted is located. If the taxpayer does not file a personal property tax return in the taxing district in which the property is located, the information must be provided before May 15.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

(1) The name and address of the taxpayer **and, if applicable, the property owner's tenant.**

(2) The location and description of the property for which the deduction was granted.

(3) Any information concerning the number of employees at the property for which the deduction was granted, including estimated totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to those employees, including estimated totals that were provided as part of the statement of benefits.

(5) Any information concerning the assessed value of the property, including estimates that were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the property owner **or a tenant of the property owner.**

(2) Any information concerning the cost of the property.

SECTION 6. IC 6-1.1-12.1-5.4, AS AMENDED BY P.L.193-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction schedule with the person's personal property return on a form

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prescribed by the department of local government finance with the township assessor of the township in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is located. Except as provided in subsection (e), the deduction is applied in the amount claimed in a certified schedule that a person files with:

(1) a timely personal property return under IC 6-1.1-3-7(a) or IC 6-1.1-3-7(b); or

(2) a timely amended personal property return under IC 6-1.1-3-7.5.

The township assessor shall forward to the county auditor and the county assessor a copy of each certified deduction schedule filed under this subsection.

(b) The deduction schedule required by this section must contain the following information:

(1) The name of the owner ~~of~~ **and, if applicable, the name of a person leasing** the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(2) A description of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

(3) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction schedule with respect to new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction schedule to the designating body, and the designating body shall adopt a resolution under section 4.5(g)(2) of this chapter.

(d) A deduction schedule must be filed under this section in the year in which the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment is installed and in each of the immediately succeeding years the deduction is allowed.

(e) The township assessor or the county assessor may:

(1) review the deduction schedule; and

(2) before the March 1 that next succeeds the assessment date for

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1 which the deduction is claimed, deny or alter the amount of the
2 deduction.

3 If the township assessor or the county assessor does not deny the
4 deduction, the county auditor shall apply the deduction in the amount
5 claimed in the deduction schedule or in the amount as altered by the
6 township assessor or the county assessor. A township assessor or a
7 county assessor who denies a deduction under this subsection or alters
8 the amount of the deduction shall notify the person that claimed the
9 deduction and the county auditor of the assessor's action. The county
10 auditor shall notify the designating body and the county property tax
11 assessment board of appeals of all deductions applied under this
12 section.

13 (f) If the ownership of new manufacturing equipment, new research
14 and development equipment, new logistical distribution equipment, or
15 new information technology equipment changes, the deduction
16 provided under section 4.5 of this chapter continues to apply to that
17 equipment if:

18 **(1) the new owner or person leasing the property from the new**
19 **owner**

20 ~~(1)~~ continues to use the equipment in compliance with any
21 standards established under section 2(g) of this chapter; and

22 **(2) the new owner** files the deduction schedules required by this
23 section.

24 (g) The amount of the deduction is the percentage under section 4.5
25 of this chapter that would have applied if the ownership of the property
26 had not changed multiplied by the assessed value of the equipment for
27 the year the deduction is claimed by the new owner.

28 (h) A person may appeal a determination of the township assessor
29 or the county assessor under subsection (e) to deny or alter the amount
30 of the deduction by requesting in writing a preliminary conference with
31 the township assessor or the county assessor not more than forty-five
32 (45) days after the township assessor or the county assessor gives the
33 person notice of the determination. Except as provided in subsection
34 (i), an appeal initiated under this subsection is processed and
35 determined in the same manner that an appeal is processed and
36 determined under IC 6-1.1-15.

37 (i) The county assessor is recused from any action the county
38 property tax assessment board of appeals takes with respect to an
39 appeal under subsection (h) of a determination by the county assessor.

40 SECTION 7. IC 6-1.1-12.1-5.6, AS AMENDED BY P.L.1-2006,
41 SECTION 134, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JANUARY 1, 2008]: Sec. 5.6. (a) This subsection

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1 applies to a property owner whose statement of benefits was approved
 2 under section 4.5 of this chapter before July 1, 1991. In addition to the
 3 requirements of section 5.4(b) of this chapter, a deduction schedule
 4 filed under section 5.4 of this chapter must contain information
 5 showing the extent to which there has been compliance with the
 6 statement of benefits approved under section 4.5 of this chapter.
 7 Failure to comply with a statement of benefits approved before July 1,
 8 1991, may not be a basis for rejecting a deduction schedule.

9 (b) This subsection applies to a property owner whose statement of
 10 benefits was approved under section 4.5 of this chapter after June 30,
 11 1991. In addition to the requirements of section 5.4(b) of this chapter,
 12 a property owner who files a deduction schedule under section 5.4 of
 13 this chapter must provide the county auditor and the designating body
 14 with information showing the extent to which there has been
 15 compliance with the statement of benefits approved under section 4.5
 16 of this chapter.

17 (c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following
 18 information is a public record if filed under this section:

19 (1) The name and address of the taxpayer **and, if applicable, the**
 20 **name of the person leasing the property from the taxpayer.**

21 (2) The location and description of the new manufacturing
 22 equipment, new research and development equipment, new
 23 logistical distribution equipment, or new information technology
 24 equipment for which the deduction was granted.

25 (3) Any information concerning the number of employees at the
 26 facility where the new manufacturing equipment, new research
 27 and development equipment, new logistical distribution
 28 equipment, or new information technology equipment is located,
 29 including estimated totals that were provided as part of the
 30 statement of benefits.

31 (4) Any information concerning the total of the salaries paid to
 32 those employees, including estimated totals that were provided as
 33 part of the statement of benefits.

34 (5) Any information concerning the amount of solid waste or
 35 hazardous waste converted into energy or other useful products by
 36 the new manufacturing equipment.

37 (6) Any information concerning the assessed value of the new
 38 manufacturing equipment, new research and development
 39 equipment, new logistical distribution equipment, or new
 40 information technology equipment including estimates that were
 41 provided as part of the statement of benefits.

42 (d) The following information is confidential if filed under this

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section:

(1) Any information concerning the specific salaries paid to individual employees by:

(A) the owner of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment; or

(B) a person leasing equipment described in clause (A) from the owner of the equipment.

(2) Any information concerning the cost of the new manufacturing equipment, new research and development equipment, new logistical distribution equipment, or new information technology equipment.

SECTION 8. IC 6-1.1-12.1-5.9, AS AMENDED BY P.L.154-2006, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 5.9. (a) This section does not apply to:

(1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or

(2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1, 1991.

(b) Not later than forty-five (45) days after receipt of the information described in section 5.1, 5.3(j), or 5.6 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits approved under section 3, 4.5, or 4.8 of this chapter. If the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:

(1) An explanation of the reasons for the designating body's determination.

(2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.

(c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the

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property owner and other interested parties, the designating body shall again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section 3, 4.5, or 4.8 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.

(d) A property owner is not excused from showing substantial compliance for benefits approved under section 3 or 4.5 of this chapter, if the reason for the property owner's noncompliance is that the property owner did not obtain or receive information necessary to demonstrate substantial compliance from the property owner's tenant or lessee.

~~(d)~~ (e) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:

- (1) the property owner;
- (2) the county auditor; and
- (3) if the deduction applied under section 4.5 of this chapter, the township assessor.

The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by IC 6-1.1-22-8, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.

~~(e)~~ (f) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.

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(g) If an appeal under subsection (f) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

SECTION 9. IC 6-1.1-12.1-12, AS AMENDED BY P.L.154-2006, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 12. (a) A property owner that has received a deduction under section 3 or 4.5 of this chapter is subject to the provisions of this section if the designating body adopts a resolution incorporating the provisions of this section for the economic revitalization area in which the property owner is located.

(b) If:

(1) the property owner, ~~for, in the case of a deduction under section 4.8 of this chapter, the property owner~~ or a tenant of the property owner, ceases operations at the facility for which the deduction was granted; and

(2) the designating body finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner's ~~or property owner's tenant's~~ plans to continue operations at the facility;

the property owner shall pay the amount determined under subsection (e) to the county treasurer.

(c) A property owner may appeal the designating body's decision under subsection (b) by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined not more than thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is a final determination that may be appealed in the same manner as other civil actions.

(d) If an appeal under subsection (c) is pending, the payment required by this section is not due until after the appeal is finally adjudicated and the property owner's liability for the payment is finally determined.

(e) The county auditor shall determine the amount to be paid by the property owner according to the following formula:

STEP ONE: For each year that the deduction was in effect, determine the additional amount of property taxes that would have been paid by the property owner if the deduction had not been in effect.

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1 STEP TWO: Determine the sum of the STEP ONE amounts.

2 STEP THREE: Multiply the sum determined under STEP TWO
3 by one and one-tenth (1.1).

4 (f) The county treasurer shall distribute money paid under this
5 section on a pro rata basis to the general fund of each taxing unit that
6 contains the property that was subject to the deduction. The amount to
7 be distributed to the general fund of each taxing unit shall be
8 determined by the county auditor according to the following formula:

9 STEP ONE: For each year that the deduction was in effect,
10 determine the additional amount of property taxes that would
11 have been paid by the property owner to the taxing unit if the
12 deduction had not been in effect.

13 STEP TWO: Determine the sum of the STEP ONE amounts.

14 STEP THREE: Divide the STEP TWO sum by the sum
15 determined under STEP TWO of subsection (e).

16 STEP FOUR: Multiply the amount paid by the property owner
17 under subsection (e) by the STEP THREE quotient.

18 SECTION 10. [EFFECTIVE JANUARY 1, 2008] **IC 6-1.1-12.1-1,**
19 **IC 6-1.1-12.1-3, IC 6-1.1-12.1-4.5, IC 6-1.1-12.1-5, IC 6-1.1-12.1-5.1,**
20 **IC 6-1.1-12.1-5.4, IC 6-1.1-12.1-5.6, IC 6-1.1-12.1-5.9, and**
21 **IC 6-1.1-12.1-12, all as amended by this act, apply to ad valorem**
22 **property taxes with assessment dates after February 28, 2008.**

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